

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 219 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

A'BAD MUNICIPAL CORPORATION

Versus

BANK OF BARODA

Appearance:

MR SK JHAVERI for appellant
No one is present on behalf of respondent
despite service.

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 15/04/99

ORAL JUDGEMENT

This Appeal under S.411 of the B.P.M.C.Act is directed against the order dt.30.8.90 passed in M.V.Appeal No.9347/86 whereby the Small Causes Court has reduced the Gross Rateable Value (for short 'GRV') to Rs.95250/- for the year 1986-87 from Rs.134681/- as

assessed by the Municipal Corporation.

The premises in question bears F.P.No.600/3/A + 3/B of ward Vadaj-B-1. The respondent - Bank had been paying the rent at the rate of Rs.7937-37 Ps. per month for the premises as per the rent receipts and the Pushish, which had been produced by the respondent - Bank itself and the tax was being paid directly to the Municipal Corporation. For the purpose of determining the GRV after taking into consideration the amount of contractual rent for a period of 12 months, the tax on tax is also added. However, in the facts of this case, the Small Causes Court has reduced the GRV by taking into consideration the amount of contractual rent and has failed to include the amount of tax on tax. Mr.Zaveri has pointed out that the Municipal Corporation had assessed the GRV at Rs.134681/- after including the tax on tax. Merely because the tax was directly paid to the Corporation, it does not mean that the tax on tax should have been ignored while computing the GRV. In this view of the matter, the impugned order passed by the Small Causes Court on 30.8.90 in M.V.Appeal No.9347/86 cannot be sustained in the eye of law and it is very clear that for no lawful justification the GRV has been considerably reduced to Rs.95250/- from that of Rs.134681/- as assessed by the Municipal Corporation. The impugned order dt.30.8.90 passed in M.V.Appeal No.9347/86 by the Small Causes Court No.12 at Ahmedabad is hereby quashed and set aside. The Appeal is allowed. The assessment made by the Municipal Corporation stands restored. No order as to costs.